

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PHILIPS F. SMITH,

Petitioner,

V.

SCOTT FRAKES,

Respondent.

8:16CV399

MEMORANDUM AND ORDER

Petitioner has filed a petition for writ of habeas corpus. However, the petition is insufficient. While it was filed on August 18, 2016, and while it uses AO Form 241, Petitioner has not stated claims but rather attached pages upon pages of documents dated in 2014 that appear to be filings in other cases. The petition is facially insufficient in that it does not substantially comply with Rule 2(d) of the Rules Governing Section 2254 Cases in the United States District Courts.

IT IS ORDERED that:

1. The petition (filing no. 1) is denied without prejudice to filing an amended petition.
2. Taking the prison mailbox rule into account, on or before September 30, 2016,¹ Petitioner shall file an amended petition using AO Form 241. Petitioner shall state his claim(s) and supporting fact(s) concisely and without argument or legal citation. That can normally be done using the form itself without attachments.

¹This means the amended petition must be *received* by the Clerk no later than September 30, 2016.

3. The Clerk shall mail Petitioner a copy of this Memorandum and Order and AO Form 241.
4. Should Petitioner fail to comply with this order in a timely fashion, this matter may be dismissed without further notice. The consequence of such dismissal could mean that Petitioner is precluded from filing a second or successive petition without first receiving permission from the Court of Appeals.

DATED this 26th day of August, 2016.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge